

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM**

Meeting Date: May 22, 2007

Executive Summary

Request for Amendment of Final Resolution Approval

Prepared by: *Doreen Carle*

Applicant: GreenWaste Recovery, Inc. and/or Affiliates	Amount Requested: \$38,305,000
Project	Application No.: 789
Location: San Jose (Santa Clara County) and Watsonville (Santa Cruz County)	Final Resolution No.: 461
	Prior Actions: IR 06-11 Approved 10/24/06 FR 461 Approved 3/20/07

Type of Business: GreenWaste Recovery Inc. (the “Company” or “GreenWaste”) was incorporated in San Jose in May 1991 and also does business as \$99 Debris Box Service. Affiliated companies include GreenTeam/Zanker of Sunnyvale and Zanker Road Resource Management, Ltd., which includes the Z-Best Composting division. The Company operates several facilities, including material recovery facilities (MRF’s) and transfer stations in the San Jose area.

Background Information:

- Initial Resolution Number 06-11 was approved on October 24, 2006 in the amount of \$38,305,000.
- Final Resolution Number 461 was approved on March 20, 2007 in the amount of \$38,305,000.

Request: The Company now requests approval to amend the Final Resolution to add two new Project locations:

- The first site located at 1555 South 7th Street in San Jose will potentially be used to store bins, carts, containers, rolling stock and for vehicle parking. GreenWaste leases this site and the improvements thereon from Piedmont Partners, LLC.
- The second site, 1340 West Beach Street in Watsonville, will be used as a temporary site, pending the completion of the construction of a previously identified and approved site located at 375 Industrial Road in Watsonville. The temporary site is currently operated by a USA Waste of California (USA Waste) on land leased from the Central California Conference of Seventh-day Adventists, a California religious corporation. Because GreenWaste was the successful bidder to take over the County of Santa Cruz contract, USA Waste agreed to sell to GreenWaste the approximately eight month balance of its existing contract with the County of Santa Cruz. As a part of that arrangement, GreenWaste will sublet this site and the improvements thereon from USA Waste and will operate temporarily from this site. Bond proceeds will not be expended at this temporary location. Although some equipment to be purchased with 2007 bond proceeds may be temporarily located at the site, the equipment will be relocated to the permanent 375 Industrial Road, Watsonville site commencing January 2008. The remaining Project is

the same as described in the original Final Resolution Request 461 (Attachment A) that was approved at the March 20, 2007 board meeting.

The Company will provide staff with copies of the leases for review prior to the bond closing.

Public Benefits and Pollution Control: The Company represents that the Project is designed to generate public benefits and pollution control benefits as represented in the attached Final Resolution Request.

SBAF Contribution: The Company is a large business and will contribute up to \$383,050 to CPCFA’s Small Business Assistance Fund (SBAF).

Financing Details: The Company anticipates a negotiated tax-exempt, weekly reset, variable rate bond issue with a term not to exceed 30 years for the qualifying portion of the project. The Company plans to secure the bonds with an irrevocable, direct pay Letter of Credit that is rated at least “A-” by Fitch Rating Agency or equivalent. The bond issue is expected to close on May 30, 2007. The TEFRA hearing was held on November 28, 2006. A second TEFRA hearing was held on May 16, 2007 to include the additional project addresses. The second TEFRA hearing superseded the first TEFRA hearing. ~~There were no comments received in support of or in opposition to this Project.~~ In response to the TEFRA notice, staff received a letter in opposition to the Project (see Attachment B). Subsequently, after the deadline for written TEFRA comments, staff received a letter of opposition to the request to approve the amendment to the Final Resolution (see Attachment C). CPCFA also received a letter from the Company's Financial Advisor regarding the opposition to the request to approve the amendment to the Final Resolution (see Attachment D).

Financing Team:

- Underwriter:** Westhoff, Cone & Holmstedt
- Bond Counsel:** Law Offices of Leslie M. Lava
- Financial Advisor:** Andrew S. Rose
- Issuer’s Counsel:** Alexis S. M. Chiu

Legal Questionnaire: The Company disclosed a contract dispute lawsuit in its legal questionnaire. The issue was previously disclosed to the Authority in February 2001 and has been resolved.

Staff Recommendation: Staff recommends approval of the amendment to Final Resolution No. 461 for an amount not to exceed \$38,305,000 for GreenWaste Recovery, Inc. and/or its Affiliates.

Final Resolution No. 461
Application No. 789

**AMENDMENT OF FINAL BOND RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
RELATING TO FINANCING FOR SOLID WASTE DISPOSAL FACILITIES
FOR GREENWASTE RECOVERY, INC. AND/OR ITS AFFILIATES**

May 22, 2007

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) by its Resolution No. 461 (the “Final Resolution”) has heretofore approved the application of GreenWaste Recovery, Inc., a California corporation (the “Applicant”), for financial assistance to finance acquisition, construction, rehabilitation or improvements to certain solid waste disposal facilities and acquisition of solid waste collection trucks, carts, bins, containers and other vehicles and equipment, all of which will be used to serve the Applicant’s customers throughout its service territory in the Counties of Santa Clara and Santa Cruz, California, as further described in its application for such approval, and has authorized the issuance of revenue bonds to provide such financial assistance; and

WHEREAS, the Borrower has notified the Authority that it desires to add two additional addresses to the definition of “Project” contained in the Term Sheet to the Final Resolution and has requested the Authority to amend the Term Sheet to the Final Resolution in order to add these addresses and the Authority now desires to amend the Term Sheet to the Final Resolution in order to add the following addresses listed under the “Project”: “1340 West Beach Street, Watsonville, California 95076” and “1555 South 7th Street, San Jose, California 95112”; and

WHEREAS, the Borrower has provided documentation to the Authority demonstrating that the Project, as amended, has complied with Division 13 (commencing with Section 21000) of the Public Resources Code, or is not a project under that division; and

WHEREAS, the Authority has determined that it is necessary and advisable that the foregoing be approved.

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The Authority hereby approves the addition of the following addresses to the definition of “Project” contained in the Term Sheet: “1340 West Beach Street, Watsonville, California 95076” and “1555 South 7th Street, San Jose, California 95112”.

Section 2. Except as amended by Section 1 hereof, all provisions and conditions of the Final Resolution, including the Term Sheet, shall remain unchanged and in full force and effect.

Agenda Item – 4.C.1.

Section 3. The Executive Director of the Authority is hereby authorized and directed to do any and all ministerial acts in order to communicate this Amendment of Final Resolution and otherwise to effectuate the purposes of this Amendment of Final Resolution.

EXHIBIT A

TERM SHEET

Name of Issue: California Pollution Control Financing Authority Variable Rate Demand Solid Waste Disposal Revenue Bonds (GreenWaste Recovery, Inc. Project) Series 2007A (the “Bonds”)

Maximum Amount of Issue: \$38,305,000 (tax-exempt)

Issuer: California Pollution Control Financing Authority (the “Authority”), Sacramento, CA

Applicant GreenWaste Recovery, Inc.

Borrower: GreenWaste Recovery, Inc.

Affiliate “Affiliate” of the Applicant means any person or entity which meets the definition of “Participating Party” under the Act and controls, is controlled by, or is under common control with, the Applicant, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise. An Affiliate shall also be a “participating party” as defined in the Act.

Trustee: The Bank of New York Trust Company, N.A.

Senior Underwriter or Placement Agent: Westhoff, Cone & Holmstedt

Bond Counsel: Leslie M. Lava, Esq.
Sausalito, CA

Remarketing Agent: Westhoff, Cone & Holmstedt

Project: Finance (i) improvements to a materials recovery facility and the acquisition of equipment, rolling stock and vehicles for the collection, processing and transfer of solid waste and other equipment and facilities functionally related thereto, all to be located at 625 and 645 Charles Street, San Jose, California 95112, (ii) the acquisition of land, the acquisition and renovation of buildings thereon to house offices and truck maintenance, washing and storage, and the acquisition of equipment, rolling stock and vehicles for the collection, processing and transfer of solid waste and other equipment and

Agenda Item – 4.C.1.

facilities functionally related thereto, all to be located at 565 Charles Street, San Jose, California 95112, (iii) the acquisition of equipment, rolling stock and vehicles for the collection, processing and transfer of solid waste and other equipment and facilities functionally related thereto, all to be located at 1340 West Beach Street and/or 375 Industrial Road, Watsonville, California 95076, and (iv) the acquisition of drop boxes, bins, carts and containers to be located with customers in the City of San Jose, California and in various incorporated and unincorporated portions of Santa Clara and Santa Cruz Counties, California, and/or to be located, together with rolling stock and vehicles for the collection, processing and transfer of solid waste, at 1555 South 7th Street, San Jose, California 95112.

Maximum Bond Term:	Not to exceed 30 years
Type of Sale:	Negotiated sale
Description of Minimum Denominations:	\$100,000 or any integral multiple of \$5,000 in excess thereof while in variable rate mode
Financing Structure:	Variable rate demand bonds; convertible to fixed rate pursuant to the Indenture
Maximum Interest Rate:	12%
Letter of Credit:	Provided by Comerica Bank, or another bank approved by the Executive Director or Deputy Executive Director that is rated at least "A-".
Other Credit Enhancement:	Not applicable
Anticipated Bond Rating:	"A+/F1" (minimum "A-")
Type of Financing:	Solid waste disposal revenue bonds
Prepared by:	Leslie M. Lava, Esq. (415) 331-6464 April 18, 2007

ATTACHMENT A

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM

Meeting Date: March 20, 2007

Executive Summary

Request for Final Resolution Approval

Prepared by: *Deana Carrillo*

Applicant: GreenWaste Recovery, Inc. and/or its Affiliates	Amount Requested: \$38,305,000
	Application No: 789
Project San Jose (Santa Clara County) and Watsonville	Final Resolution No.: 461
Location: (Santa Cruz County), CA	Prior Actions: IR 06-11
	Approved 10/ 24/06

Type of Business: GreenWaste Recovery Inc. (the “Company” or “GreenWaste”) was incorporated in San Jose in May 1991 and also does business as \$99 Debris Box Company. Affiliated companies include Zanker Road Resource Management, Ltd., of which Z-Best Composting is a division, and GreenTeam/Zanker of Sunnyvale. The Company operates several facilities, including material recovery facilities (MRF’s) and transfer stations in the San Jose area.

Project Description: The Company anticipates using bond proceeds to finance project components located in two cities—City of San Jose and City of Watsonville.

City of San Jose. The Company intends to purchase collection vehicles and containers to fulfill its new residential greenwaste hauling contract with the City of San Jose. The Company also intends to reorganize and expand its existing materials recovery facility (MRF) in San Jose, located at 625 & 645 Charles Street. Because of the MRF expansion the Company intends to purchase land to create a new vehicle maintenance facility which will serve as a corporate yard at 565 Charles Street in the City of San Jose. The Company also intends to purchase additional collection vehicles and containers to be used in various incorporated and unincorporated areas of Santa Clara County and with customers throughout its service area. The Authority has received a letter in support for the Project from the City of San Jose (see Attachment A).

City of Watsonville. The Company anticipates the purchase of collection vehicles, containers and other equipment to support a new commercial waste collection contract with Santa Cruz County. The collection vehicles and other equipment will be located on leased land at 375 Industrial Road in the City of Watsonville. The land is leased from Watson Pre-Cool; if a termination of the lease occurs, the vehicles and equipment will be stored at another location. The collection containers will be located with the Company’s customers throughout its Santa Cruz County service area.

Public Benefits: The Company represents that the Project will provide public benefits indicated below.

Waste Diversion. The Project will assist the communities served in meeting AB 939 requirements.

Ratepayer benefits. GreenWaste was awarded the solid waste disposal contracts with the City of San Jose and Santa Cruz County. The rates used in the Company’s bid were based on receiving tax-exempt financing, which will benefit the ratepayers through reduced financing costs.

SBAF Contribution. The Company is a large business and will contribute up to \$383,050 to CPCFA’s Small Business Assistance Fund (SBAF).

Pollution Control: The Company represents that the Project will provide environmental benefits indicated below.

Air Quality. The new low-emission, California Air Resources Board (CARB) compliant trucks will emit less particulate matter and NO_x emissions, which will in turn reduce the amount of air pollution created by the vehicles. Some, if not all, of the collection vehicles to be acquired may be bio-diesel powered and will emit noticeably less pollutants than the current conventionally powered diesel fleet in use.

Energy Efficiency. The use of split body trucks in conjunction with residential service will reduce the number of truck routes currently being used to collect solid waste, as these trucks are capable of picking up two types of waste at once. Use of these split body trucks will reduce traffic congestion, fuel consumption, and the resulting air pollution that would otherwise occur.

Water Quality. The proposed facility will be operating on concrete or asphalt paved surfaces and will not operate on exposed ground areas, preventing any seepage of undesirable materials into the ground water. The facility applicant intends to comply with storm water management regulations.

Permits: The Company represents it has obtained and provided Staff with copies of all discretionary permits required for the expansion of the San Jose MRF. The other proposed projects entail the purchase of land, equipment and development of corporate yards which do not require discretionary permits.

Anticipated Financing Details: The Company anticipates a negotiated tax-exempt, weekly reset, variable rate bond issue with a term not to exceed 30 years. The Company plans to secure the bonds with an irrevocable, direct pay Letter of Credit that is rated at least “A-” by Fitch Rating Agency or equivalent. The target date for financing is first quarter of 2007.

Financing Team:

- Underwriter:** Westhoff, Cone & Holmstedt
- Bond Counsel:** Law Offices of Leslie M. Lava
- Financial Advisor:** Andrew S. Rose
- Issuer’s Counsel:** Alexis Chiu

Legal Questionnaire: The Staff has reviewed the Company’s responses to the questions contained in the Legal Status portion of the application. The Company disclosed a lawsuit that was filed against it by the City of San Jose in 1997. The issue, a contract dispute, was previously disclosed to the Authority in February 2001 and has been resolved.

Staff also discovered enforcement actions at the City of San Jose, violations at the Sunnyvale MRF, and a cease and desist order for an unpermitted (Construction & Demolition) C&D facility

Agenda Item – 4.C.1.

in San Jose. These issues have been resolved to the satisfaction of the Local Enforcement Agency (LEA).

Staff does not believe that the disclosed issues affect the Company's ongoing financial viability.

Staff Recommendation: Staff recommends approval of Final Resolution No. 461 for an amount not to exceed \$38,305,000 for GreenWaste Recovery, Inc. and/or its Affiliates.

**GREENWASTE RECOVERY, INC.
AND/OR ITS AFFILIATES**

Bond Amount: \$38,305,000

San Jose (Santa Clara County), CA

Watsonville (Santa Cruz County), CA

Application No. 789

March 20, 2007

STAFF SUMMARY – CPCFA

Prepared by: *Deana Carrillo*

ISSUE:

GreenWaste Recovery, Inc. and/or its Affiliates (the “Company” or “GreenWaste”) requests approval of Final Resolution No. 461 for an amount not to exceed \$38,305,000 to finance: (1) the purchase of land, construction of a building and development of purchased land for a vehicle maintenance facility, expansion of the Company’s existing Material Recovery Facility (MRF), and purchase of collection vehicles, containers and other equipment in San Jose; and (2) the purchase of collection vehicles, equipment, rolling stock and containers located in Watsonville to service the Santa Cruz County contract (together, the “Project”).

CDLAC Allocation. The Company anticipates receiving an allocation of up to \$38,305,000 from CDLAC at the March 21, 2007 meeting.

TEFRA. The TEFRA hearing was held on November 28, 2006. There were no comments received in support of or in opposition to this Project.

BORROWER:

The Company was incorporated in San Jose in May 1991 and also does business as \$99 Debris Box Company. Affiliated companies include Zanker Road Resources Management, Ltd., of which Z-Best Composting is a division, and GreenTeam/Zanker of Sunnyvale. The Company operates several facilities including material recovery facilities (MRFs) and transfer stations in the San Jose area. The Company provides residential and commercial collection of garbage, recyclables and yard trimmings as well as street sweeping and debris box services. The Company has contracts to service the cities of Portola Valley and Woodside (San Mateo County), San Juan Bautista (San Benito County), Petaluma (Sonoma County) and unincorporated areas of Santa Clara County and the City of San Jose.

GreenWaste Recovery, Inc. is affiliated with Zanker Road Resource Management, Ltd. and GreenTeam/Zanker of Sunnyvale. The ownership and structure is provided on Attachment B.

Legal Questionnaire. The Staff has reviewed the Company’s responses to the questions contained in the Legal Status portion of the application. The Company disclosed a lawsuit that was filed against it by the City of San Jose in 1997. The issue, a contract dispute, was previously disclosed to the Authority in February 2001 and has been resolved.

Staff also discovered enforcement actions at the City of San Jose, violations at the Sunnyvale MRF and a cease and desist order for an unpermitted (Construction & Demolition) C&D facility

Agenda Item – 4.C.1.

in San Jose. These issues have been resolved to the satisfaction of the Local Enforcement Agency (LEA).

Staff does not believe that the disclosed issues affect the Company’s ongoing financial viability.

Prior Actions and Financings. Prior actions and financings are detailed below.

Project	Issue Date	Amt. Issued	Bond Amt. Outstanding as of 3/1/07	Debt Amt. Outstanding as of 3/1/07
GreenWaste of Tehama*	06/03/1999	\$ 3,435,000	\$ 700,000	\$ 0
GreenWaste Recovery, Inc.	06/03/1999	3,625,000	1,880,000	1,880,000
Zanker Road Landfill	06/03/1999	6,370,000	4,540,000	4,540,000
Zanker Road Landfill	06/03/1999	2,960,000	0	0
GreenWaste Recovery, Inc.	10/10/2001	8,305,000	2,005,000	2,005,000
GreenWaste Recovery, Inc.	01/06/2006	<u>12,315,000</u>	<u>12,315,000</u>	<u>12,315,000</u>
	Totals:	<u>\$37,010,000</u>	<u>\$21,440,000</u>	<u>\$20,740,000</u>

* This bond was assumed by Waste Connections in 2003

PROJECT INFORMATION:

The Company anticipates using bond proceeds to finance project components located in two cities—City of San Jose and City of Watsonville.

City of San Jose. The Company intends to purchase collection vehicles and containers to fulfill its new residential greenwaste hauling contract with the City of San Jose. The Company also intends to reorganize and expand its existing Materials Recovery Facility (MRF) in San Jose, located at 625 & 645 Charles Street in the City San Jose. Because of the MRF expansion the Company intends to purchase land to create a new vehicle maintenance facility which will serve as a corporate yard at 565 Charles Street in the City of San Jose. The Company also intends to purchase additional collection vehicles and containers to be used in various incorporated and unincorporated areas of Santa Clara County and with customers throughout its service area. The Authority has received a letter in support for the Project from the City of San Jose (see Attachment A).

City of Watsonville. The Company anticipates the purchase of collection vehicles, containers and other equipment to support a new commercial waste collection contract with Santa Cruz County. The collection vehicles and other equipment will be located on leased land at 375 Industrial Road in the City of Watsonville. The land is leased from Watson Pre-Cool; if a termination of the lease occurs, the vehicles and equipment will be stored at another location. The collection containers will be located with the Company’s customers throughout its Santa Cruz County service area.

Costs associated with the projects include:

	San Jose	Watsonville	Total
Land	\$ 1,500,000		\$ 1,500,000
Building & Site Improvements	2,700,000		2,700,000
Collection Vehicles	4,655,000	\$ 9,490,000	14,145,000
Sorting Line & Conveyors	8,500,000		8,500,000
Containers, Rolling Stock & Street Sweepers	1,435,000	7,215,000	8,650,000
Office Equipment	30,000	40,000	70,000
Shop Equipment & Grinder	875,000	125,000	1,000,000
Letter of Credit Fees			242,948
Bond Issuance Expenses			542,800
SBAF Contribution			223,300
Contingencies	0	0	730,952
Totals:	\$19,695,000	\$16,870,000	\$38,305,000

***Note:** The project costs reported in the Borrower's application and shown here in staff's report are estimated costs. At the time this financing closes, the estimated Project costs will be finalized and stated in the Tax Certificate. Variations from the costs shown in the application and in this report may occur prior to the closing due to increased costs of certain components of the Project from original estimates, determination by bond counsel that certain costs do not qualify for tax-exempt financing, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation or for other reasons. However, the Borrower confirms, through submission of a signed application and will confirm through covenants and representations in various bond documents, that all assets purchased with bond proceeds will qualify for tax exempt financing, that they will be used to complete the Project as described, and that the average life tests required by federal law and described in the Tax Certificate will continue to be met. Tax-exempt financing may be only one source out of multiple sources of financing for a given project.*

PUBLIC BENEFITS:

The Company represents that the Project will result in public benefits noted below.

Waste Diversion. The Project will assist the communities served in meeting AB 939 requirements.

Ratepayer benefits. GreenWaste was awarded the solid waste disposal contracts with the City of San Jose and the County of Santa Cruz. The rates used in the Company's bids were based on receiving tax-exempt financing which will benefit the ratepayers through reduced financing costs.

SBAF Contribution. The Company is a large business and will contribute up to \$383,050 to CPCFA's Small Business Assistance Fund (SBAF).

POLLUTION CONTROL:

The Company represents that the Project will result in pollution control benefits as noted below.

Air Quality. The new low-emission, California Air Resources Board (CARB) compliant trucks will emit less particulate matter and NOx emissions, which will in turn reduce the amount of air pollution created by the vehicles. Some, if not all, of the collection vehicles to be acquired may

be bio-diesel powered and will emit noticeably less pollutants than the current conventionally powered diesel fleet in use.

Energy Efficiency. The use of split body trucks in conjunction with residential service will reduce the number of truck routes currently being used to collect solid waste, as these trucks are capable of picking up two types of waste at once. Use of these split body trucks will reduce traffic congestion, fuel consumption, and the resulting air pollution that would otherwise occur.

Improved Water Quality. The proposed facility will be operating on concrete or asphalt paved surfaces and will not operate on exposed ground areas, preventing any seepage of undesirable materials into the ground water. The applicant intends to comply with storm water management regulations.

PERMITTING & ENVIRONMENTAL APPROVALS:

The Company represents it has obtained and provided staff with copies of all discretionary permits required for the expansion of the San Jose MRF. The other proposed Projects entail the purchase of land, equipment and development of corporate yards which do not require discretionary permits.

ANTICIPATED TIMELINE:

The Company anticipates purchasing the land in the first quarter of 2007. Construction and renovations will likely begin in September 2007. Equipment purchases began in October 2006 and are scheduled to be completed by June 2009.

FINANCING DETAILS:

The Company anticipates a negotiated tax-exempt, weekly reset, variable rate bond issue with a term not to exceed 30 years. The Company plans to secure the bonds with an irrevocable, direct pay Letter of Credit from Comerica that is rated at least “A-” by Fitch Rating Agency or equivalent. The target date for financing is first quarter of 2007.

FINANCING TEAM:

Underwriter: Westhoff, Cone & Holmstedt
Bond Counsel: Law Offices of Leslie M. Lava
Financial Advisor: Andrew S. Rose
Issuer’s Counsel: Alexis Chiu

RECOMMENDATION:

Staff recommends approval of Final Resolution No. 461 for an amount not to exceed \$38,305,000 for GreenWaste Recovery, Inc. and/or its Affiliates.

Attachment B Agenda Item – 4.C.1.
T.H.E. P.U.B.L.I.C.
P.O. Box 36132
San Jose, CA 95158-6132

May 15, 2007

Opposition to revenue bonds of May 16, 2007 for \$41,935,000 hearing, or such other amount.

By Facsimile: (916)657-4821

California Pollution Control Financing Authority
915 Capitol Mall, Room 457
Sacramento, CA 95814

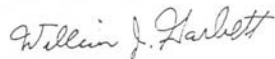
EILEEN MARXEN, Deputy Executive Director:

This is opposition pursuant to Section 147(f) of the Internal Revenue Code of 1986 as amended on the proposed issuance of revenue bonds by the Authority. The bonds should not be issued because of racketeering influencing and corrupting organizations (RICO). The City of San Jose passed a new tax increase of 28% on May 8, 2007 that included amounts for these same purchases. This was after a new 'garbage' contract had been accepted from other than the lowest bidder.

To fund once again the same purchases by another public agency would provide windfall profits without review of kickbacks. The former mayor and chief of staff are presently charged and set for trial over 'garbage' issues as a historical note worthy of judicial notice.

At all times the City of San Jose knew or should have known of your financing plans since they were publicly noticed in a legal newspaper of general publications and cited prior to, and during, public hearings. The tax increase had been agreed upon in closed session prior to the public hearing to exclude the lowest bidder. The real question is what City of San Jose officials certified or participated in the application before the Authority. A Notice of intent to sue was filed with the City of San Jose.

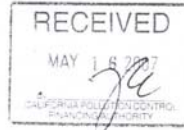
Respectfully,



William J. Garbett, Agent

Attachment C

Agenda Item - 4.C.1.



EXECUTIVE BOARD
CHINA MUI
 PRESIDENT & EXECUTIVE
 DIRECTOR
 200 TWILIGHT BLVD., SUITE 300
 SACRAMENTO, CA 95834

JOHN P. SANCHEZ
 PRESIDENT
 1117 11TH STREET, SUITE 501
 SACRAMENTO, CA 95814

ED MONTGOMERY
 PRESIDENT & EXECUTIVE
 DIRECTOR
 1117 11TH STREET, SUITE 501
 SACRAMENTO, CA 95814

JOHN COUGHLIN
 PRESIDENT
 1117 11TH STREET, SUITE 501
 SACRAMENTO, CA 95814

JOHN YOUNG
 PRESIDENT
 1117 11TH STREET, SUITE 501
 SACRAMENTO, CA 95814

ROBERT MONTGOMERY
 PRESIDENT
 1117 11TH STREET, SUITE 501
 SACRAMENTO, CA 95814

MARTIN M. HARRIS
 PRESIDENT
 1117 11TH STREET, SUITE 501
 SACRAMENTO, CA 95814

JOHN COUGHLIN
 PRESIDENT
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 SACRAMENTO, CA 95814

JOHN COUGHLIN
 PRESIDENT
 1117 11TH STREET, SUITE 501
 SACRAMENTO, CA 95814

LEGISLATIVE REPRESENTATIVE
 JOHN MUIR
 1117 11TH STREET, SUITE 501
 SACRAMENTO, CA 95814



May 16, 2007

Bill Lockyer, State Treasurer
 California Pollution Control Financing Authority
 915 Capitol Mall, Room 457
 Sacramento, CA 95814

Re: Teamster Opposition to Request to Approve Amendment of Final Resolution Authorizing The Issuance of Revenue Bonds for Green Waste Recovery, Inc. and/or its Affiliates, #789, Solid Waste Disposal, \$38,305,000

Dear State Treasurer Lockyer,

I am writing to you in your capacity as Chair of the California Pollution Control Financing Authority on behalf of the Teamsters to express our strong opposition to the request to approve amendment of final resolution authorizing the issuance of revenue bonds in the amount of \$38,305,000 to Green Waste Recovery, Inc. and/or its Affiliates, which is an item scheduled for hearing at a meeting the Authority will be conducting on May 22, 2007.

As I am sure you are aware, the Teamsters represent workers in the waste recovery industry. We have had long standing collective bargaining agreements with employers throughout this industry. Last year, the San Jose City Council entered into contractual agreements for waste recovery services with three companies, California Waste Solutions, Garden City Disposal and Green Waste. Prior to entering into these new contractual agreements the City had a contractual agreement with Norcal Waste Systems, with which the Teamsters had a collective bargaining agreement.

When the City entered into the new contract, both California Waste Solutions and Garden City Disposal entered into collective bargaining agreements with the Teamsters, Green Waste did not.

Green Waste, has continually promised to enter into such a collective bargaining agreement, and has even pledged to do so before a meeting of

Attachment C Agenda Item – 4.C.1.

Bill Lockyer, State Treasurer Page 2 May 16, 2007

the City Council, but as of yet has repeatedly refused to enter into a collective bargaining agreement. Further, recently Green Waste has offered alternative collective bargaining contract proposals which are unacceptable to the Teamsters because such proposals would directly contradict and undermine the existing collective bargaining agreements between the Teamsters and the other two waste recovery employers.

In short, we believe that approval of the above referenced agenda item would reward a company that has continually acted in bad faith with the Teamsters as well as the city, so as to avoid the unionization of its workers and all that that entails. Accordingly, we urge you to deny approval of this agenda item, and in so doing, to send a message to Green Waste, that the state of California will not tolerate such bad faith behavior.

Sincerely,



Libby Sanchez, Legislative Advocate

Cc: Michael Paparian, Executive Director
Chuck Mack, Chairman-President, Teamsters Joint Council 7
Bob Morales, Secretary-Treasurer, Teamsters Local 350

Attachment C

Agenda Item - 4.C.1.

**CALIFORNIA TEAMSTERS
PUBLIC AFFAIRS COUNCIL**

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May 16, 2007

John Chiang, State Controller
California Pollution Control Financing Authority
915 Capitol Mall, Room 457
Sacramento, CA 95814

Re: Teamster Opposition to Request to Approve Amendment of Final Resolution Authorizing The Issuance of Revenue Bonds for Green Waste Recovery, Inc. and/or its Affiliates, #789, Solid Waste Disposal, \$38,305,000

Dear State Controller Chiang,

I am writing to you in your capacity as Chair of the California Pollution Control Financing Authority on behalf of the Teamsters to express our strong opposition to the request to approve amendment of final resolution authorizing the issuance of revenue bonds in the amount of \$38,305,000 to Green Waste Recovery, Inc. and/or its Affiliates, which is an item scheduled for hearing at a meeting the Authority will be conducting on May 22, 2007.

As I am sure you are aware, the Teamsters represent workers in the waste recovery industry. We have had long standing collective bargaining agreements with employers throughout this industry. Last year, the San Jose City Council entered into contractual agreements for waste recovery services with three companies, California Waste Solutions, Garden City Disposal and Green Waste. Prior to entering into these new contractual agreements the City had a contractual agreement with Norcal Waste Systems, with which the Teamsters had a collective bargaining agreement.

When the City entered into the new contract, both California Waste Solutions and Garden City Disposal entered into collective bargaining agreements with the Teamsters, Green Waste did not.

Green Waste, has continually promised to enter into such a collective bargaining agreement, and has even pledged to do so before a meeting of

Attachment C

Agenda Item – 4.C.1.

John Chiang, State Controller


Page 2

May 16, 2007

the City Council, but as of yet has repeatedly refused to enter into a collective bargaining agreement. Further, recently Green Waste has offered alternative collective bargaining contract proposals which are unacceptable to the Teamsters because such proposals would directly contradict and undermine the existing collective bargaining agreements between the Teamsters and the other two waste recovery employers.

In short, we believe that approval of the above referenced agenda item would reward a company that has continually acted in bad faith with the Teamsters as well as the city, so as to avoid the unionization of its workers and all that that entails. Accordingly, we urge you to deny approval of this agenda item, and in so doing, to send a message to Green Waste, that the state of California will not tolerate such bad faith behavior.

Sincerely,



Libby Sanchez, Legislative Advocate

Cc: Michael Papanian, Executive Director
Chuck Mack, Chairman-President, Teamsters Joint Council 7
Bob Morales, Secretary-Treasurer, Teamsters Local 350



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May 16, 2007

Michael C. Genest, Director
 Department of Finance
 California Pollution Control Financing Authority
 915 Capitol Mall, Room 457
 Sacramento, CA 95814

Re: Teamster Opposition to Request to Approve Amendment of Final Resolution Authorizing The Issuance of Revenue Bonds for Green Waste Recovery, Inc. and/or its Affiliates, #789, Solid Waste Disposal, \$38,305,000

Dear Director Genest,

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When the City entered into the new contract, both California Waste Solutions and Garden City Disposal entered into collective bargaining agreements with the Teamsters, Green Waste did not.

Director Genest

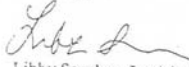
Page 2

May 16, 2007

Green Waste, has continually promised to enter into such a collective bargaining agreement, and has even pledged to do so before a meeting of the City Council, but as of yet has repeatedly refused to enter into a collective bargaining agreement. Further, recently Green Waste has offered alternative collective bargaining contract proposals which are unacceptable to the Teamsters because such proposals would directly contradict and undermine the existing collective bargaining agreements between the Teamsters and the other two waste recovery employers.

In short, we believe that approval of the above referenced agenda item would reward a company that has continually acted in bad faith with the Teamsters as well as the city, so as to avoid the unionization of its workers and all that that entails. Accordingly, we urge you to deny approval of this agenda item, and in so doing, to send a message to Green Waste, that the state of California will not tolerate such bad faith behavior.

Sincerely,



Libby Sanchez, Legislative Advocate

Cc: Michael Papanar, Executive Director
Chuck Mack, Chairman-President, Teamsters Joint Council 7
Bob Morales, Secretary-Treasurer, Teamsters Local 350

Attachment D

Agenda Item – 4.C.1.

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Attorney at Law
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andrewrose@wastefinance.com

May 21, 2007

Mr. Michael Papanian
California Pollution Control Financing Authority
915 Capitol Mall, Room 457
Sacramento, CA 95814

Re: **GreenWaste Recovery Revenue Bond Application
#789, Solid Waste Disposal, \$38,305,000**

Dear Mike:

I write with reference to a letter you received dated May 16, 2007 from Ms. Libby Sanchez of the California Teamsters Public Affairs Council opposing your May 22 approval of an amendment to the Final Resolution for my client GreenWaste Recovery, Inc. (The original Final Resolution having been approved by the California Pollution Control Authority at your March meeting).

First, as you know, the Company's pending request seeks an amendment to add two sites to its "project" for truck storage and maintenance, but in no other way is the project description or purpose changed from those described in the previously approved Final Resolution. So, we hope that you will agree that the Teamsters' attempt to use this request for what is essentially a technical change to a previous final approval to derail that approval is neither fair, nor wise public policy.

I would also point out that her letter seems to be part of a continuing effort by the Teamsters to challenge companies that do not comport exactly with their wishes in any forum available to them, similar to an effort made by a Teamster's representative at the Authority meeting last year in connection with the Athens Disposal bonds. As I said at the time to your predecessor, I don't believe the legislature intended for CPCFA to be used in that manner and happily, the Authority agreed with that. I trust it will continue to do so.

Specifically, I refer you to my December, 2006 letter to your predecessor, a copy of which is attached for your convenience. The facts have not materially changed since I wrote that letter, it is only a bit later in the process. Importantly – and despite Ms. Sanchez's suggestions to the contrary – the Teamsters' status amongst the Company's employees is still somewhat uncertain. But as I explain below, GreenWaste has nevertheless accorded the union every courtesy just as soon as relevant law has allowed,

and indeed in an attempt to expedite the process has perhaps gone farther than it should have in meeting with the union and beginning discussions with it.

GreenWaste is still assembling a workforce for its new contract with San Jose, and will not begin active operations under the contract until July 1, nearly six weeks from now. While some current GreenWaste employees have agreed to be reassigned to work on the San Jose contract, and some of the employees of the predecessor contractor (Norcal Waste Systems) have indicated that they will accept employment with GreenWaste when operations begin, the Company has not actually employed or paid anyone to work on the contract. Indeed, GreenWaste is still receiving responses to job offers made at the April Job Fair referenced in my letter to Kirsten – two last week for example. More significantly, a number of applicants who had initially indicated that they would accept the Company's offer have since changed their minds and taken jobs elsewhere, without ever having actually been employed.

GreenWaste was and is required by its San Jose contract to first offer employment to the current Norcal employees who are now performing the tasks GreenWaste will shortly take over. As I pointed out previously, under federal labor law if more than 50% of the employees who ultimately go to work for GreenWaste on the contract were covered by the current collective bargaining agreement between Norcal and the Teamsters, then GreenWaste will be required to "recognize" the union as the collective bargaining representative for the "bargaining unit" performing this San Jose contract, and negotiate in good faith with the union in an attempt to conclude a new collective bargaining agreement.

The initial response from the Norcal employees to job offers extended during the Job Fair suggested that, when GreenWaste finally commences operations in July, more than 50% of the employees would be from the current Norcal workforce on the project. In anticipation of the fact that it would inherit Norcal's bargaining obligation, accordingly, GreenWaste had an initial meeting with the union, and received from it a sample of the kind of collective bargaining agreement the union hoped to achieve for the bargaining unit it expects to represent (presumably, essentially the same contract to which Ms. Sanchez's letter refers, some versions of which she advises were earlier adopted by California Waste Solutions and Garden City Disposal.)

GreenWaste, in turn, "marked up" the sample contract to reflect the kind of contract terms it would hope – in an ideal situation – to obtain in any final contract it might reach with the union, and sent a copy to the Teamsters. The Company advises me that its "model contract" contains wage and benefit provisions similar to those already in place with other San Jose service providers, which in any event meet or exceed the "prevailing wage" requirements imposed by the San Jose contract. Concededly, GreenWaste's model does differ to a greater or lesser extent from the contracts the union has reached with other service providers in the area, but that is the nature of collective bargaining. Ms. Sanchez's suggestion notwithstanding, the Company doubts that any two union contracts separately negotiated will be identical in all terms, and certainly most of the samples the Company has reviewed are not identical. Although discussions have just

commenced, and have been necessarily preliminary so far, management began them just as soon as it could plausibly do so, based upon the early response to the Job Fair.

However, it is still unclear what the final make up of the employees will be. Indeed, since GreenWaste met with the union, and since it returned a marked-up reply to the Teamsters' "model" contract, six of the prospective employees decided not to accept employment with the Company after all, bringing the expected percentage of former Norcal employees well under 50%. Other applicants may reverse their decision to accept employment, and new applicants may need to be solicited. Between now and the commencement of operations, the complexion of the bargaining unit may well change further. Given this fluidity, and the uncertainty as to just what the ultimate complement of employees will look like, it is legally unclear whether the discussions GreenWaste commenced with the union should even continue. Nevertheless, the Company has in fact continued them.

So, while Ms. Sanchez' letter is technically correct in stating that GreenWaste "has refused to enter into a collective bargaining agreement", the statement is highly misleading. She seems to imply that GreenWaste must necessarily accept the first proposal from the Teamsters, and that no further negotiation is permitted. She likewise suggests that it would somehow be improper for an employer to propose different terms for a union contract than those contained in the contracts of others in its industry. Both of these suggestions are wrong. In fact, when it matures, the Company's duty would be to negotiate in good faith to try to reach a mutually acceptable contract, and it will so negotiate. The Company's principals have in fact successfully negotiated collective bargaining agreements with the union in the past, in difficult situations. And while it may well be that the position of the Teamsters ultimately will be "take it or leave it," the Company hopes and expects otherwise. I am informed that such posturing is common in collective bargaining, although typically such positions are not staked out before negotiations have even really begun.

Ms. Sanchez's letter illustrates the danger of the CPCFA getting dragged into the middle of collective bargaining negotiations between third parties. Ms. Sanchez writes that "GreenWaste has offered alternative collective bargaining contract proposals which are unacceptable to the Teamsters..." That is news to the Company -- it has itself to date received no response from the union to the marked up agreement it sent the Teamsters a week ago. In other words, she seems to be trying to use a letter to CPCFA to respond, rather than dealing directly with the Company. An interesting negotiating tactic to be sure although not what I think the Legislature had in mind in establishing the CPCFA.

Ms. Sanchez's letter contains another material error which the Company hopes is just a mistake. Despite her contrary representation, neither GreenWaste nor its representatives have ever appeared before the San Jose City Council and "pledged" the Company would enter into a collective bargaining agreement with the Teamsters union. Instead, it has consistently agreed to comply and in fact has continued to comply with its contract with the City and with federal labor law.

Attachment D

Agenda Item – 4.C.1.

Mr. Michael Paparian

May 21, 2007

Page 4

In short, I can only conclude that the Teamsters wish to use CPCFA to do their negotiating for them, rather than working with the Company at the appropriate time to arrive at a lawful and acceptable agreement.

San Jose chose GreenWaste to continue its long and excellent service to the City, and is counting on it to begin new service on July 1. I therefore urge you to approve the amendment to the Final Resolution at your meeting on Tuesday. Please feel free to contact me with questions or comments.

Sincerely,



ANDREW S. ROSE

cc: Hon. John Chiang, State Controller
Mr. Michael Genest, Director of Finance

Attachment D

Agenda Item – 4.C.1.

ANDREW S. ROSE

Attorney at Law

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*Of Counsel,
Cantey & Hanger L.L.P., Austin, Texas*

October 14, 2006

Ms. Kirsten Spalding
Executive Director
California Pollution Control Financing Authority
915 Capitol Mall, Room 457
Sacramento, CA 95814

RE: GreenWaste Recovery, Inc.

Dear Kirsten:

You have asked for details of the displaced worker and other labor policies which my client GreenWaste Recovery, Inc. ("GWR" or the "Company") will follow in connection with its service to the City of San Jose under its new contract and for which financing is requested from the CPCFA. I am happy to provide that information.

First, it is important to note that GWR has not hired any employees as yet for its performance of the new San Jose operations and will not do so until next spring. Service under the new contract does not start until mid-2007. So, any discussion of labor issues is to some extent premature at this point. (That is why the form on the last page of the enclosed material is not filled in as yet since employees will not be hired for some months.)

However, as you will see from the attached, the Company is not only committed to paying its employees fair wages and benefits but is in fact required to do so by the San Jose contract. Like many cities in Northern California, the City's policy is to require contractors for such things as solid waste collection and recycling to pay "prevailing wage" rates (which include benefits). This provides not only fair wages for employees but a more fair playing field when bids are sought for such services. These rates are based on either a collective bargaining agreement or rates set by the City (which are generally, in turn, set in accordance with those paid by other similarly situated companies in the geographic area which do have collective bargaining agreements). I have attached the relevant Exhibit to the San Jose contract which sets out in detail the Prevailing Wage

Attachment D

Agenda Item – 4.C.1.

Ms. Kirsten Spalding
October 14, 2006
Page Two

Requirements. Note that the Company must file statements with the City detailing its compliance with the requirement and the City monitors compliance through its Office of Equality Assurance.

Second, like most solid waste management companies taking over service from another contractor, GWR will want to retain experienced employees from the previous contractor. That just makes good business sense, especially in a service industry such as solid waste collection. Again, however, even if GWR did not have that intention, it is required to do so by the San Jose contract. Those provisions are also contained in the material attached. As you can see, there will be a "Job Fair" in April of next year at which time the Company and current employees who wish to work for GWR can meet to arrange employment under the new contract. At that point, if 50% or more of the employees hired under the new contract are currently part of a bargaining unit subject to a collective bargaining agreement with the current contractor, then labor law requires that the Company negotiate with them as a bargaining unit, in effect stepping into the shoes of the previous contractor.

In summary, as you will see after review of this material, both as company policy and contractual obligation, GWR will hire current eligible workers and pay them Prevailing Wages.

Please let me know if you have any further questions on this matter.

Sincerely,



ANDREW S. ROSE

cc: Don Dean, GreenWaste Recovery, Inc.
Tony Cone, Westhoff, Cone and Holmstedt

attachments

Below is GreenWaste Recovery, Inc., response to item 9.8 of the City of San Jose's Request for Proposals relating to the services to be performed by GreenWaste:

9.8 EMPLOYEE AND LABOR RELATIONS PLAN

GreenWaste Recovery, Inc. (GWR) has been in business since 1991 and currently has over 200 employees performing various jobs in its Solid Waste collection and recycling operations. Its main facility is located at 6254 Charles Street in San Jose and has a satellite facility in Petaluma, California. GWR has always had a great relationship with its employees. In its history, GWR has never had a work stoppage or missed any of its collection or processing requirements due to labor unrest. It is GWR's commitment to its employees to provide satisfactory working conditions with pay and benefits commensurate with the work performed.

GWR has always subscribed to labor peace and will continue to do so. For this contract, GWR has agreed to offer jobs to all qualified displaced workers from the former contractor and will work with the City in holding a job fair as provided for in the contract. All workers hired for this contract will be paid at least the scales and benefits outlined in Exhibit 12, "Wage Policy", of the contract. GWR will also abide by all laws relations to labor issues including fair labor negotiations.

GWR has never had "labor discord" in its operations and doesn't anticipate any in the future; however, there is no way to guarantee there will never be any. BWR has always provided many benefits and programs outside its employment contract with its employees to maintain a competent and contented work force. However, should there be "labor discord" that GWR is unable to dispel, it guarantees to perform and fulfill all the requirements of the contract.

**EXHIBIT 12
WAGE POLICY**

Pursuant to City of San José Prevailing Wage policy, Contractor and any subcontractor shall be obligated to pay not less than the prevailing wage as indicated in this Exhibit.

I. CITY COUNCIL WAGE POLICY

A. PREVAILING WAGE POLICY

California Labor Code and/or Resolutions of the City of San José require the payment of not less than the general prevailing rate of per diem wages and rates for holiday and overtime and adherence to all labor standards and regulations.

Prevailing Wages established by the California Department of Industrial Relations shall be the General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1. The General Prevailing Wage Rates may be adjusted throughout the term of this Agreement.

Prevailing Wages established by the City of San José shall mean the wages paid under a collective bargaining agreement between the Contractor and a recognized union representing workers who perform services pursuant to this agreement; or

If there is no collective bargaining agreement as described above, not less than the prevailing rate of per diem wages for the employee craft/classification as determined by the City of San José's Office of Equality Assurance.

The City Prevailing Wage will be subject to annual adjustment on the anniversary of the Agreement. Adjustment will be based on the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, All Items, for all Urban Consumers [CPI-U] for San Francisco-Oakland-San Jose).

B. REPORTS

The Office of Equality Assurance will monitor the payment of prevailing wage by requiring the Contractor and all Subcontractors to file a LABOR COMPLIANCE WORKFORCE STATEMENT and LABOR COMPLIANCE FRINGE BENEFIT STATEMENT with supporting documentation.

The Contractor and covered Subcontractors shall also report such other additional information, including certified payrolls, as requested by the Director of Equality Assurance to ensure adherence to the Policy.

Labor compliance statements must be filed in the Office of Equality Assurance no later July 10, 2007 at the address below.

**EXHIBIT 12
WAGE POLICY**

City of San José
Office of Equality Assurance
200 East Santa Clara Street
Fifth Floor
San José, CA 95113
Phone: 408.535-8430

THIS EXHIBIT INCLUDES THE LABOR COMPLIANCE WORKFORCE STATEMENT AND LABOR COMPLIANCE FRINGE BENEFIT STATEMENT TO BE SUBMITTED BY THE AWARDED CONTRACTOR ONLY. DO NOT SUBMIT THESE FORMS WITH YOUR PROPOSAL.

C. EMPLOYEE RETENTION REQUIREMENTS

Contractor acknowledges that when collection services are transferred to Contractor, workers who perform services for City's current Contractor will be displaced from their employment. Contractor shall offer employment to all qualified displaced workers who have been employed by the current Contractor for at least 120 calendar days prior to July 1, 2007 provided that Contractor shall not be required to create additional positions that Contractor does not need nor to lay-off or discharge Contractor's employees in order to employ qualified displaced workers. A qualified displaced worker includes non-management workers of the current Contractor who have been employed for at least 120 calendar days prior to July 1, 2007 and who would otherwise be laid-off. Contractor is prohibited from discharging any qualified displaced workers for at least 90 days after the Collection Start-up Date except for cause. After the initial 90 days, the continued employment of qualified displaced workers will be under the terms and conditions established for all of Contractor's workers in the particular job classification. Contractor shall submit displaced worker hiring status reports to the City Representative on the last working day of October 2007 and on the last working day of June 2008.

The following provisions are applicable to this RFP and will become part of the Agreement:

1. Qualified Displaced Worker Defined

Qualified Displaced Worker means any person employed by the predecessor Contractor or any subcontractor to the predecessor Contractor who meets the following requirements:

- i. The person provides direct labor or service on the City Agreement;
- ii. The person is not an "exempt" employee under the Fair Labor Standards Act (FLSA); and

EXHIBIT 12, PAGE 2 OF 13
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Attachment D

Agenda Item – 4.C.1.

**EXHIBIT 12
WAGE POLICY**

iii. The person has been employed on the City Agreement by the predecessor service Contractor or subcontractor for at least 120 calendar days prior to July 1, 2007.

2. Current Eligible Retention Employee Defined

Current Eligible Retention Employee means a current employee of the new Contractor who meets the following requirements:

- i. The person has been employed by the Contractor for at least the six month period prior to the date of the new service or labor contract;
- ii. The person would otherwise need to be terminated as a result of the implementation of the retention requirements; and
- iii. The Contractor chooses to designate the person as a Current Eligible Retention Employee.

The Contractor must establish requirements i. and ii. above by submitting payroll records or other reliable evidence satisfactory to the Director of Equality Assurance by the date specified in writing by the Director of Equality Assurance. If the Contractor cannot submit such evidence, the employee cannot be designated a Current Eligible Retention Employee.

D. Employment of Displaced Workers

The new Contractor shall offer continued employment to all Displaced Workers who are interested in such continued employment.

The City will provide the new Contractor with information regarding which employees of the Predecessor are Qualified Displaced Workers.

Notwithstanding anything to the contrary in this provision, the new Contractor may deem an employee not to be a Qualified Displaced Worker if, and only if:

1. The employee has been convicted of a crime that is related to the job or to his/her job performance; or
2. The Contractor can demonstrate to the City that the employee presents a significant danger to customers, co-workers or City staff.

In the event that the new Contractor does not have enough positions available to hire all Qualified Displaced Workers desiring continued employment and to retain its Current Eligible Retention Employees, the new Contractor shall hire Qualified Displaced Workers and retain Current Eligible Retention Employees by seniority within each employment classification. For any positions that become available during the initial ninety (90) day period of the Agreement, the new Contractor shall hire Qualified Displaced Workers

**EXHIBIT 12
WAGE POLICY**

and rehire its Current Eligible Retention Employees by seniority within each employment classification.

1. Retention Requirements

- a. Qualified Displaced Workers hired by the new Contractor may not be discharged without cause during the initial ninety (90) day period of their employment.
- b. The new Contractor shall offer continued employment to each Qualified Displaced Worker who receives a satisfactory performance evaluation at the end of the initial ninety (90) day period of employment. Such employment shall be offered under the same terms and conditions established by the new Contractor for all of its employees.

2. Third Party Beneficiary

Qualified Displaced Workers are third party beneficiaries of this Agreement, which means that the employee has the right to enforce the provisions of the Agreement independent of the City's right to enforce the provisions of the Agreement. The third party rights will become effective only when the Agreement becomes effective. No third party rights are intended to apply to any employee regarding the RFP process.

3. Obligations Upon Termination

Upon termination of this Agreement Contractor shall fully cooperate with all City requests regarding contacts with Contractor's employees to enable a transition in the workforce to a new Contractor.

E. JOB FAIR

Contractor shall participate in a job fair for the displaced workers to be held on a City-scheduled day during the period April 1 to April 8, 2007 to discuss employment opportunities with such workers. The City Representative shall notify Contractor of the date and place of the job fair at least seven (7) calendar days in advance.

F. EMPLOYEE WORK ENVIRONMENT EVALUATION (THIRD TIER REVIEW)

All service or labor contracts are required to undergo an Employee Work Environment Evaluation, commonly referred to as "Third Tier Review." This Review looks into a proposer's history as an employer and work condition commitments. Each proposer is required to complete an Employee Work Environment Questionnaire and return it with the proposal.

**EXHIBIT 12
WAGE POLICY**

If the Questionnaire is not returned, the proposal will be deemed to be non-responsive. All proposals are required to address: employee health benefits; compensated days off; employee complaint procedures; compliance with state and federal workplace standards; Employee Retention requirements, if applicable; and Service Disruption/Labor Peace provisions, if applicable.

G LABOR PEACE (FINAL LANGUAGE DEPENDENT ON PROPOSAL ACCEPTED BY CITY)

The Office of Equality Assurance has determined that the level of vulnerability of the proposed Agreement to service or labor disputes is sufficient to warrant that labor peace is essential to the propriety interests of the City. The determination was based on considerations including, but not limited to the following factors:

1. The service or labor will be provided on city site or a site which is important to the propriety interests of the city;
2. The service provider relies on a significant amount of public patronage;
3. The economic effect of any disruption of city expenditures or revenues is significant;
4. The effect of any disruption on the citizens, tourists and businesses in the community is significant.

Proposers are to include in their proposal how they will assure that no labor dispute or unrest will occur during the term of the City Agreement. Failure to address this topic in the submission of the proposal will deem the proposal to be non-responsive.

Proposers are cautioned that the City Agreement will include details and requirements of Labor Peace based on the proposal response.

H. ENFORCEMENT

1. General

Contractor acknowledges it has read and understands that, pursuant to the terms and conditions of this Agreement, it is required to pay workers prevailing wage ("Wage Provision") and to submit certain documentation to the City establishing its compliance with such requirement. ("Documentation Provision.") Contractor further acknowledges the City has determined that the Wage Provision promotes each of the following (collectively "Goals"):

WAGE POLICY

- A) IT PROTECTS CITY JOB OPPORTUNITIES AND STIMULATES THE CITY'S ECONOMY BY REDUCING THE INCENTIVE TO RECRUIT AND PAY A SUBSTANDARD WAGE TO LABOR FROM DISTANT, CHEAP, LABOR AREAS.
- B) IT BENEFITS THE PUBLIC THROUGH THE SUPERIOR EFFICIENCY OF WELL-PAID EMPLOYEES, WHEREAS THE PAYMENT OF INADEQUATE COMPENSATION TENDS TO NEGATIVELY AFFECT THE QUALITY OF SERVICES TO THE CITY BY FOSTERING HIGH TURNOVER AND INSTABILITY IN THE WORKPLACE.
- C) PAYING WORKERS A WAGE THAT ENABLES THEM NOT TO LIVE IN POVERTY IS BENEFICIAL TO THE HEALTH AND WELFARE OF ALL CITIZENS OF SAN JOSE BECAUSE IT INCREASES THE ABILITY OF SUCH WORKERS TO ATTAIN SUSTENANCE, DECREASES THE AMOUNT OF POVERTY AND REDUCES THE AMOUNT OF TAXPAYER FUNDED SOCIAL SERVICES IN SAN JOSE.
- D) IT INCREASES COMPETITION BY PROMOTING A MORE LEVEL PLAYING FIELD AMONG CONTRACTORS WITH REGARD TO THE WAGES PAID TO WORKERS.

2. Remedies for Contractor's breach of prevailing wage/living wage provisions

- A) SUSPENSION OR TERMINATION: SUSPEND AND/OR TERMINATE THE AGREEMENT OR FINANCIAL ASSISTANCE AGREEMENT FOR CAUSE;
- B) RESTITUTION: REQUIRE THE EMPLOYER TO PAY ANY AMOUNTS UNDERPAID IN VIOLATION OF THE REQUIRED PAYMENTS AND CITY'S ADMINISTRATIVE COSTS AND LIQUIDATED DAMAGES, AND IN THE CASE OF FINANCIAL ASSISTANCE TO REFUND ANY SUMS DISBURSED BY THE CITY.
- C) DEBARMENT: DEBAR THE CONTRACTOR OR SUBCONTRACTOR FROM FUTURE CITY CONTRACTS AND/OR DEEM THE RECIPIENT INELIGIBLE FOR FUTURE FINANCIAL ASSISTANCE.

WAGE POLICY

D) WITHHOLDING OF PAYMENT: CONTRACTOR AGREES THAT THE DOCUMENTATION PROVISION IS CRITICAL TO THE CITY'S ABILITY TO MONITOR CONTRACTOR'S COMPLIANCE WITH THE WAGE PROVISION AND TO ULTIMATELY ACHIEVE THE GOALS. CONTRACTOR FURTHER AGREES ITS BREACH OF THE DOCUMENTATION PROVISION RESULTS IN THE NEED FOR ADDITIONAL ENFORCEMENT ACTION TO VERIFY COMPLIANCE WITH THE WAGE PROVISION. IN LIGHT OF THE CRITICAL IMPORTANCE OF THE DOCUMENTATION PROVISION, THE CITY AND CONTRACTOR AGREE THAT CONTRACTOR'S COMPLIANCE WITH THIS PROVISION, AS WELL AS THE WAGE PROVISION, IS AN EXPRESS CONDITION OF CITY'S OBLIGATION TO MAKE EACH PAYMENT DUE TO THE CONTRACTOR PURSUANT TO THIS AGREEMENT. THE CITY IS NOT OBLIGATED TO MAKE ANY PAYMENT DUE THE CONTRACTOR UNTIL CONTRACTOR HAS PERFORMED ALL OF ITS OBLIGATIONS UNDER THESE PROVISIONS. ANY PAYMENT BY THE CITY DESPITE CONTRACTOR'S FAILURE TO FULLY PERFORM ITS OBLIGATIONS UNDER THESE PROVISIONS SHALL NOT BE DEEMED TO BE A WAIVER OF ANY OTHER TERM OR CONDITION CONTAINED IN THIS AGREEMENT OR A WAIVER OF THE RIGHT TO WITHHOLD PAYMENT FOR ANY SUBSEQUENT BREACH OF THE WAGE PROVISION OR THE DOCUMENTATION PROVISION.

E) LIQUIDATED DAMAGES FOR BREACH OF WAGE PROVISION: CONTRACTOR AGREES ITS BREACH OF THE WAGE PROVISION WOULD CAUSE THE CITY DAMAGE BY UNDERMINING THE GOALS, AND CITY'S DAMAGE WOULD NOT BE REMEDIED BY CONTRACTOR'S PAYMENT OF RESTITUTION TO THE WORKERS WHO WERE PAID A SUBSTANDARD WAGE. CONTRACTOR FURTHER AGREES THAT SUCH DAMAGE WOULD INCREASE THE GREATER THE NUMBER OF EMPLOYEES NOT PAID THE APPLICABLE PREVAILING WAGE AND THE LONGER THE AMOUNT OF TIME OVER WHICH SUCH WAGES WERE NOT PAID. THE CITY AND CONTRACTOR MUTUALLY AGREE THAT MAKING A PRECISE DETERMINATION OF THE AMOUNT OF CITY'S DAMAGES AS A RESULT OF CONTRACTOR'S BREACH OF THE WAGE PROVISION WOULD BE IMPRACTICAL AND/OR EXTREMELY DIFFICULT. THEREFORE, THE PARTIES AGREE THAT, IN THE EVENT OF SUCH A BREACH, CONTRACTOR SHALL PAY TO THE CITY AS LIQUIDATED DAMAGES THE SUM OF THREE (3) TIMES THE DIFFERENCE BETWEEN THE ACTUAL AMOUNT OF WAGES PAID AND THE AMOUNT OF WAGES THAT SHOULD BE PAID.

AUDIT RIGHTS

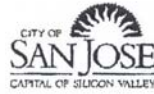
WAGE POLICY

All records or documents required to be kept pursuant to this Agreement to verify compliance with the Wage Provision shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at Contractor's address indicated for receipt of notices in this Agreement.

J. COEXISTENCE WITH ANY OTHER EMPLOYEE RIGHTS

These provisions shall not be construed to limit an employee's ability to bring any legal action for violation of any rights of the employee.

WAGE POLICY



Office of Equality Assurance Wage

AGREEMENT: RECYCLE PLUS COLLECTION SERVICES

Classification	Basic Hourly Pay Rate	Health, Welfare & Pension	Vacation Allowance (7 Days)	Paid Sick Leave (13 Days)	Paid Holidays (12 Days)	Total Hourly Pay
Garbage Driver	24.57	7.24	.66	1.04	1.13	\$34.64
Recycle Driver	24.57	7.24	.66	1.04	1.13	\$34.64
Yard Trimming Claw Driver	24.57	7.24	.66	1.04	1.13	\$34.64
Yard Trimming Collection Driver	24.57	7.24	.66	1.04	1.13	\$34.64

Breakdown of Benefits	
Paid Vacation Days	After 1 year: 7 Days – 56 Hours
	After 5 years: 15 Days – 120 Hours
	After 10 years: 20 Days – 160 Hours
	After 15 years: 25 Days – 200 Hours
	After 20 years: 30 Days – 240 Hours
	After 25 years: 35 Days – 280 Hours
	After 30 years: 40 Days – 320 Hours
Paid Sick Leave	Eleven (11) paid Sick Days
Paid Holidays	Twelve (12) paid Holidays

NOTE: Pursuant to the Labor Code and/or City Resolution, the awarding body is responsible for determining classifications to be used on Construction, Maintenance, Service and other contracts subject to prevailing wage and/or living wage requirements. Upon award of Agreement, the successful contractor/service provider will be required to submit: (1) Labor Compliance Workforce Statement; (2) Labor Compliance Fringe Benefit Statement with supporting documentation. As a condition of its Agreement, this firm may also be required to complete and file certified payrolls as requested by the Office of Equality Assurance.

Rate Information issued 1/12/2006

Page 1 of 4

EXHIBIT 12 PAGE 9 OF 13

WAGE REQUIREMENTS ADDENDUM**CONTRACT: RECYCLE PLUS COLLECTION SERVICES**

Classification	Basic Hourly Pay Rate	Health Welfare & Pension	Vacation Minimum (7 Days)	Paid Sick Leave (11 days)	Paid Holidays (12 Days)	Total Hourly Pay
Garbage Driver	25.06	7.39	.67	1.06	1.16	\$35.34
Recycle Driver	25.06	7.39	.67	1.06	1.16	\$35.34
Yard Trimming Claw Driver	25.06	7.39	.67	1.06	1.16	\$35.34
Yard Trimming Collection Driver	25.06	7.39	.67	1.06	1.16	\$35.34

Breakdown of Benefits		
Paid Vacation Days	After 1 year	7 Days – 56 Hours
	After 5 years	15 Days – 120 Hours
	After 10 years	20 Days – 160 Hours
	After 15 years	25 Days – 200 Hours
	After 20 years	30 Days – 240 Hours
	After 25 years	35 Days – 280 Hours
	After 30 years	40 Days – 320 Hours
Paid Sick Leave	Eleven (11) paid Sick Days	
Paid Holidays	Twelve (12) paid Holidays	
NOTE: Pursuant to the Labor Code and/or City Resolution, the awarding body is responsible for determining classifications to be used on Construction, Maintenance, Service and other contracts subject to prevailing wage and/or living wage requirements. Upon award of contract, the successful contractor/service provider will be required to submit: (1) <u>Labor Compliance Workforce Statement</u> ; (2) <u>Labor Compliance Fringe Benefit Statement</u> with supporting documentation. As a condition of its contract, this firm may also be required to complete and file certified payrolls as requested by the Office of Equality Assurance.		

Rate Information Effective 7/1/2006
 Rate Information Issued 3/16/2006

Page 4 of 4

Office of Equality Assurance Wage Determination continued

CONTRACT: RECYCLE PLUS SWEEPING SERVICES

Classification	Basic Hourly Pay Rate	Health Welfare & Pension	Vacation Minimum (7 Days)	Paid Sick Leave (11 days)	Paid Holidays (12 Days)	Total Hourly Pay
Residential Street Sweeper	19.27	2.72	.52	.82	.89	\$24.22

Breakdown of Benefits		
Paid Vacation Days	After 1 year	7 Days – 56 Hours
	After 5 years	15 Days – 120 Hours
	After 10 years	20 Days – 160 Hours
	After 15 years	25 Days – 200 Hours
	After 20 years	30 Days – 240 Hours
	After 25 years	35 Days – 280 Hours
	After 30 years	40 Days – 320 Hours
Paid Sick Leave	Eleven (11) paid Sick Days	
Paid Holidays	Twelve (12) paid Holidays	
NOTE: Pursuant to the Labor Code and/or City Resolution, the awarding body is responsible for determining classifications to be used on Construction, Maintenance, Service and other contracts subject to prevailing wage and/or living wage requirements. Upon award of contract, the successful contractor/service provider will be required to submit: (1) Labor Compliance Workforce Statement; (2) Labor Compliance Fringe Benefit Statement with supporting documentation. As a condition of its contract, this firm may also be required to complete and file certified payrolls as requested by the Office of Equality Assurance.		

Rate Information Effective 7/1/2006
 Rate Information Term: 3/4/2006

Office of Equality Assurance Wage Determination continued

CONTRACT: RECYCLE PLUS MATERIALS RECOVERY FACILITY OPERATIONS

Classification	Basic Hourly Pay Rate	Health Welfare & Pension	Vacation Minimum (6 Days)	Paid Sick Leave (7 days)	Paid Holidays (8 Days)	Total Hourly Pay
Sorter	12.19	3.53	.36	.42	.48	\$16.98
Floor Sorter/Raker	18.20	3.53	.50	.59	.67	\$23.49
Spotter	14.19	3.53	.41	.48	.55	\$19.16
Buy Back Operator	16.71	3.53	.47	.55	.62	\$21.88
Mechanic	28.92	3.53	.75	.87	1.00	\$35.07
Equipment Operator	18.05	3.53	.50	.58	.66	\$23.32
Baler Operator	18.16	3.53	.50	.58	.67	\$23.44
Scale Operator	19.16	3.53	.52	.61	.70	\$24.52

Breakdown of Benefits		
Paid Vacation Days	After 1 year	6 Days – 48 Hours
	After 5 years	15 Days – 120 Hours
	After 10 years	20 Days – 160 Hours
	After 15 years	25 Days – 200 Hours
	After 20 years	30 Days – 240 Hours
	After 25 years	35 Days – 280 Hours
Paid Sick Leave	Seven (7) paid Sick Days	
Paid Holidays	Eight (8) paid Holidays	
NOTE: Pursuant to the Labor Code and/or City Resolution, the awarding body is responsible for determining classifications to be used on Construction, Maintenance, Service and other contracts subject to prevailing wage and/or living wage requirements. Upon award of contract, the successful contractor/service provider will be required to submit: (1) Labor Compliance Workforce Statement; (2) Labor Compliance Fringe Benefit Statement with supporting documentation. As a condition of its contract, this firm may also be required to submit certified payrolls as requested by the Office of Equality Assurance.		

Rate Information Effective 7/1/2006
 Rate Information Issued 2/18/2006

Page 3 of 4

Office of Equality Assurance Wage Determination continued

Determination Notes

*The full amount of the total hourly wage must be paid directly to the worker, UNLESS the Contractor is making payments to a benefit plan. If the Contractor is making payments to a benefit plan but the benefits being paid do not add up to the full amount of benefits identified, the Contractor must pay the difference directly to the worker.

**Hours and Days of Work
(Industrial Welfare Commission Order No. 16-2001)**

City of San José contracts subject to City prevailing wage or living wage policies will use the same guidelines for all covered classifications/employees.

Employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh (7th) consecutive day of work in a workweek.

Rates will be subject to annual adjustment beginning July 1, 2006. (Adjustments will be based on the Consumer Price Index, All Items, for all Urban Consumers [CPI-U] for San Francisco-Oakland-San Jose)

Rate Information Effective 7/1/2006

WAGE POLICY

Office of Equality Assurance Wage Determination continued

AGREEMENT: RECYCLE PLUS COLLECTION SERVICES

Classification	Basic Hourly Pay Rate	Health, Welfare & Pension	Vacation Minimum (Days)	Paid Sick Leave (11 days)	Paid Holidays (12 Days)	Total Hourly Pay
Residential Street Sweeper	18.89	2.66	.51	.80	.87	\$23.73

Breakdown of Benefits		
Paid Vacation Days	After 1 year	7 Days – 56 Hours
	After 5 years	15 Days – 120 Hours
	After 10 years	20 Days – 160 Hours
	After 15 years	25 Days – 200 Hours
	After 20 years	30 Days – 240 Hours
	After 25 years	35 Days – 280 Hours
Paid Sick Leave	After 30 years	40 Days – 320 Hours
	Eleven (11) paid Sick Days	
Paid Holidays	Twelve (12) paid Holidays	
NOTE: Pursuant to the Labor Code and/or City Resolution, the awarding body is responsible for determining classifications to be used on Construction, Maintenance, Service and other contracts subject to prevailing wage and/or living wage requirements. Upon award of Agreement, the successful contractor/service provider will be required to submit: (1) <u>Labor Compliance Workforce Statement</u> ; (2) <u>Labor Compliance Fringe Benefit Statement</u> with supporting documentation. As a condition of its Agreement, this firm may also be required to complete and file certified payrolls as requested by the Office of Equality Assurance.		

Attachment D

Agenda Item – 4.C.1.

EXHIBIT 12
WAGE POLICY

Office of Equality Assurance Wage Determination continued

AGREEMENT: RECYCLE PLUS COLLECTION SERVICES

Classification	Basic Hourly Pay Rate	Health, Welfare & Pension	Vacation Minimum (5 Days)	Paid Sick Leave (7 days)	Paid Holidays (8 Days)	Total Hourly Pay
Sorter	11.95	3.46	.36	.41	.47	\$16.65
Floor Sorter/Raker	17.84	3.46	.49	.57	.66	\$23.02
Spotter	13.91	3.46	.40	.47	.53	\$18.77
Buy Back Operator	16.36	3.46	.46	.53	.61	\$21.44
Mechanic	28.35	3.46	.73	.86	.98	\$34.38
Equipment Operator	17.70	3.46	.49	.57	.65	\$22.87
Baler Operator	17.81	3.46	.49	.57	.65	\$22.98
Scale Operator	18.79	3.46	.51	.60	.68	\$24.04

Breakdown of Benefits	
Paid Vacation Days	After 1 year After 5 years After 10 years After 15 years After 20 years After 25 years
	6 Days – 48 Hours 15 Days – 120 Hours 20 Days – 160 Hours 25 Days – 200 Hours 30 Days – 240 Hours 35 Days – 280 Hours
Paid Sick Leave	Seven (7) paid Sick Days
Paid Holidays	Eight (8) paid Holidays
NOTE: Pursuant to the Labor Code and/or City Resolution, the awarding body is responsible for determining classifications to be used on Construction, Maintenance, Service and other contracts subject to prevailing wage and/or living wage requirements. Upon award of Agreement, the successful contractor/service provider will be required to submit: (1) Labor Compliance Workforce Statement; (2) Labor Compliance Fringe Benefit Statement with supporting documentation. As a condition of its Agreement, this firm may also be required to submit certified payrolls as requested by the Office of Equality Assurance.	

Rate Information issued 1/12/2008

Page 3 of 4

EXHIBIT 12, PAGE 11 OF 13
YTAGS

**EXHIBIT 12
WAGE POLICY**

Office of Equality Assurance Wage Determination continued

Determination Notes

*The full amount of the total hourly wage must be paid directly to the worker, UNLESS the Contractor is making payments to a benefit plan. If the Contractor is making payments to a benefit plan but the benefits being paid do not add up to the full amount of benefits identified, the Contractor must pay the difference directly to the worker.

Hours and Days of Work

(Industrial Welfare Commission Order No. 16-2001)

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Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh (7th) consecutive day of work in a workweek.

Rates will be subject to annual adjustment beginning July 1, 2006. (Adjustments will be based on the Consumer Price Index, All Items, for all Urban Consumers [CPI-U] for San Francisco-Oakland-San José)

Attachment D

Agenda Item – 4.C.1.

EXHIBIT 12
WAGE POLICY



LABOR COMPLIANCE
WORKFORCE STATEMENT

Page ___ of ___

CONTRACTOR NAME: _____

YT & RSS SERVICES AGREEMENT: _____

In the chart below, list the name, prevailing wage or living wage classification(s) to be used, rate of pay and hire date for each employee expected to work on the above Agreement. See example below.

EMPLOYEE NAME	CRAFT/TRADE CLASSIFICATION	BASIC HOURLY RATE OF PAY (On City of San José Agreement)	DATE OF HIRE (Indenture Date If Apprentice)
<i>Example: Bob Jones</i>	<i>Recycle Driver</i>	<i>\$22.28</i>	<i>6/1/2002</i>

Questions regarding classifications allowed on San José projects should be directed to the Office of Equality Assurance at 408-535-8430.